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14 UNITED STATES DISTRICT COURT

15 NORTHERN DISTRICT OF CALIFORNIA

16 SAN FRANCISCO DIVISION

17 UNITED STATES OF AMERICA,) Case No: CR 07-0295 MAG
18 Plaintiff,) UNITED STATES' RESPONSE TO
19 v.) DEFENSE'S MOTION IN LIMINE TO
20 NICOLE LEA MAYS,) EXCLUDE OTHER ACTS EVIDENCE
21 Defendant.) UNDER RULES 404(b) AND 403
22 _____) Pretrial Conf: April 1, 2008
23) Time: 2:00 p.m.
24) Court: Hon. Elizabeth D. Laporte
25)

26 At this time, the United States has no intention of introducing "other acts" evidence in its
27 case in chief under Federal Rule of Evidence 404(b) at trial. This includes evidence of prior
28 drug use or questioning on prior drug use. However, the government specifically reserves the
right to use such evidence as impeachment if the defendant chooses to testify pursuant to FRE
607.

29 As stated in the United States' Trial Brief, the government intends to offer Sargent Hart's
30 testimony that the defendant had two outstanding warrants at the time of her arrest. The
31 admissibility of this evidence is addressed in the United States' Opposition to the Defense's

1 Motion in Limine to Exclude Warrants. In summary, the two outstanding warrants do not
2 constitute “other acts” under 404(b) and 403.

3 DATED: March 25, 2008

4 Respectfully submitted,

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8 /s/
9 WENDY M. THOMAS
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